IN THE HIGH COURT OF JUDICIATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.680 OF 1998

The Commissioner of Income-tax,
Bombay City V, Bombay .. Applicant.
V/s.
M/s.Elys Inject P. Ltd. .. Respondent.

Mr.Parag Vyas with Mr.Ashok Kotangale & Mr.A.S. Rao for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 18TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following question for the opinion of this Court reading as under :-

Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amount of Rs.9,77,114/- being the subsidy received by the assessee from State Government cannot be taken into consideration for working out the 'actual cost' of the plant and machinery as defined in Section 43(1) of the Income-tax Act, 1961 and consequently depreciation, development rebate/investment allowance are to be allowed to assessee with respect to entire cost ?

2. The learned counsel for the applicant-revenue fairly submits that the above question has already been answered by the Supreme Court in the case of CIT V/s. P.J. Chemicals Ltd. [(1994) 210 ITR 830 (SC)] in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case cited supra. Reference, accordingly stands disposed of with no order as to costs.

****